



PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## Education and Local Government Interim Committee

### 59th Montana Legislature

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September 6, 2006

Senator John Cobb, Chairman  
Legislative Finance Committee  
P. O. Box 388  
Augusta MT 59410-0388

In Re: House Bill 2 Companion Bill Concept

Dear Senator Cobb:

At the meeting of the Education and Local Government Interim Committee (ELG) on August 18, 2006, the committee had an extended discussion about the concept of having a "companion bill" to House Bill 2 (HB2) that would contain matters of substantive law that are related to the budget but are not specific budget appropriations.

This concept and discussion came to our committee by way of the Postsecondary Education Policy and Budget Subcommittee (PEPB) as part of their project to use clear accountability measures as part of the state budget for the Montana University System. Once the PEPB identified the accountability measures and defined through them the "deliverables" that state government is seeking in return for funding the university system, the issue became how to make these accountability measures operational within the state budget process.

The recommendation of legislative legal staff was that these accountability measures should be operationalized through the vehicle of a HB2 companion bill, rather than appearing as language within HB2 itself.

Therefore, first the PEPB and then, upon their recommendation, the ELG had a detailed discussion about the concept of a HB2 companion bill as the mechanism to make accountability measures operational within the state budget for the university system.

We are sending this letter to you, with the sense of these discussions, since a companion bill to HB2 could not be drafted until the legislative session is convened and there is a HB2 drafted. In that scenario, this committee's view and the advice of legislative staff is that such a companion bill would best be at the request of the House Appropriations and Senate Finance and Claims Committees. So our discussion and this letter is intended to provide some background and perhaps some framing of the issues related to this companion bill concept in order to facilitate a similar discussion by your committee, the LFC.

The accountability measures proposed and recommended by PEPB and ELG (as written into budget decision packages recommended to the executive) include the following four different mechanisms for the budget process:

1. That state funds are appropriated to the university system in HB2 and a required report must be submitted to some interim legislative committee (e.g. PEPB) that addresses how that funding accomplished the specific list of accountability measure deliverables that would be outlined in the companion bill
2. That state funds are appropriated to the university system in HB2 as one-time-only (OTO) funds, but during the interim the university system must submit a report to some interim legislative committee that addresses how those OTO funds were used to accomplish the specific list of accountability measure deliverables. If that interim committee is satisfied with the deliverables, then they are given authority, through the companion bill, to recommend to the executive budget office that those OTO funds are to rollover into the base year funding for the subsequent budget. In essence, in return for accomplishing deliverables, the companion bill would authorize that OTO funding could become ongoing funding
3. That state funds are appropriated to the university system in HB2 for the first fiscal year of the biennium with additional funding appropriated in the second year, but the second year funding is "contingent" upon the university system submitting a report to some interim legislative committee that addresses how the first year funding was used to accomplish the specific list of accountability measure deliverables. If that interim committee is satisfied with the deliverables, then they are given the authority in the companion bill to recommend to the executive budget office that the "contingency" has been met so that the second fiscal year funds may be released
4. That state funds are appropriated precisely as described in number 2 above regarding OTO funds, but that one specific accountability measure would require that the university keep tuition rate increases at a specific percentage as proposed by the Board of Regents in an EPP budget initiative that was also presented to PEPB and ELG

These are the four specific accountability measures that are contemplated in the PEPB and ELG budget initiative recommendations and each was discussed in relation to a HB2 companion bill as the means to make these measures operational.

The discussion by the ELG on each of these four companion bill mechanisms was, in the same order as above, as follows:

1. The use of a companion bill to include specific required reports and accountability measure deliverables that are to be submitted to an interim legislative committees as a means of accountability was a concept that ELG members were very comfortable supporting.
2. Using a companion bill to create the authority for interim budget changes whereby one-time-only (OTO) appropriations could become ongoing and rollover into the

subsequent base budget (contingent upon a report that demonstrates the accountability deliverables in that companion bill) was also a concept that ELG members were comfortable to support, as long as the accountability measures are not too detailed or onerous

3. Using a companion bill to create the authority for contingency funding, whereby second year funding in the biennium would only be released contingent upon completion and demonstration of accountability measure deliverables was a concept that the ELG and legal staff were not very comfortable supporting
4. Any use of a companion bill to address tuition rates, specifically to authorize that OTO funding could become ongoing if specific tuition rate targets were met, the ELG and legal staff were not uncomfortable at all with this concept. There was concern that this action may intrude upon the constitutional authority of the Board of Regents.

Therefore, it is the intent of this letter to provide you and LFC members with a sense of this discussion and a sense of the perspective of the ELG about the concept of a HB2 companion bill, in particular the use of such a companion bill to make operational the accountability measures that the PEPB developed during their interim work on university system budgeting.

Should you have any questions about any of these matters, please feel free to contact me.

Sincerely,

Senator Jeff Mangan, Chairman

Cc: Clayton Schenck, Legislative Fiscal Analyst  
Greg Petesch, Esquire  
Sheila Stearns, Commissioner of Higher Education